

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

UNITED STATES OF AMERICA

CASE NO. 22-Cr-0058-gwc

v.

BERK ERATAY,

Defendant.

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MOTION TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT

Comes now Berk Eratay, through undersigned counsel, and moves that the time between the Court's last status conference, held on June 16, 2023, and the date set for trial in this matter, or October 7, 2024, be excluded for purposes of calculating the Speedy Trial Act deadlines in this cause. As grounds for this motion, defendant states:

1. The undersigned has only recently been appointed to serve as Mr. Eratay's attorney following the withdrawal of predecessor counsel upon counsel's appointment to serve on the Vermont Superior Court.

2. The discovery being produced to the defendants has been extensive – it is estimated that the government, during an investigation apparently spanning four years, applied for and procured over 60 search warrants, to include warrants associated with the seizure of numerous electronic devices such as laptops, desktop computers and cellular telephones. The undersigned expects that each electronic device will contain matter, including location data and other metadata, of evidentiary significance, requiring their close review and forensic analysis.

3. In addition, the grand jury has charged the alleged commission by the defendants of an alleged long-running conspiracy to commit a wire fraud scheme. The documents produced

in discovery relating to the commission of that scheme are understood to be voluminous, and the undersigned believes that the records intended to be introduced by the government include communications in the Turkish language, requiring for their effective review translation into English. In addition, it is understood that the government is seeking the production of foreign evidence in various forms, potentially requiring later investigation once produced in discovery.

4. The government at the status conference further suggested the possibility that the indictment will be superseded again this year. As to the instant third superseding indictment, it is anticipated that numerous pre-trial motions will be filed, necessitating extended briefing.

5. In light of all of the above, defendant Eratay, through counsel, requested at the status conference the setting of a trial date in the Fall of 2024, not for the purposes of delay, but so as to permit the undersigned to have adequate time to review and analyze the discovery for purposes of trial and to permit him effectively to represent defendant throughout the pre-trial proceedings (to include the potential of extensive litigation of fourth amendment issues associated with the above-referenced search warrants).

6. As was represented to the Court, defendant was aware prior to the June 16 status conference that the additional time that was being requested by undersigned counsel relative to the setting of pre-trial motions and for trial would be excluded for purposes of the Speedy Trial Act calculations in this case. Defendant consents to the exclusion of said time. Counsel for defendant Gumrukcu has advised the undersigned that their client does not oppose, but in fact also consents to, the granting of the instant motion and has asked that we so inform the Court.

In light of the above, defendant submits that the ends of justice will be directly served by the additional time established by the Court for the filing of pre-trial motions and for the commencement of trial and that those interests outweigh the interests of the public and the

defendant in a speedy trial. We respectfully submit that the setting of earlier motions deadlines and an earlier trial commencement date would have deprived defendant Eratay of the opportunity to make fully informed and intelligent decisions with regard to strategic decisions in the defense of the cause, and would further deprive his counsel reasonable time necessary for effective preparation of defendant's motions and for trial, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A), (B)(ii), (iv).

WHEREFORE, it is respectfully requested that the time between the Court's last status conference, held on June 16, 2023, and the date set for trial in this matter, or October 7, 2024, be excluded for purposes of calculating the Speedy Trial Act deadlines in this case.

Respectfully submitted,

SULLIVAN PLLC
Counsel for Berk Eratay

By: 

Allan J Sullivan
PO 849
Manchester VT 05255-0849
(802) 768-8521
allan@sullivan-pllc.com